

# **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

## **Minutes**

**December 21, 2004**

The Capital Projects and Bond Oversight Committee met on Tuesday, December 21, 2004, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jodie Haydon, Co-Chair; Senators Tom Buford and Jerry Rhoads; and Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Guests testifying before the Committee: Sandra Woodley and Sherron Jackson, Council on Postsecondary Education; Bob Wiseman, University of Kentucky; Jim Abbott, Finance and Administration Cabinet; Joe Wilkins, Bluegrass Station; Glenn Mitchell, Department of Agriculture; Sandy Williams, Kentucky Infrastructure Authority; and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, Bart Hardin, and Shawn Bowen.

Representative Haydon, who is retiring from the General Assembly at the end of the year, said this would be his last Committee meeting. He thanked the Committee members and staff, and said it has been a privilege to work with the Committee.

Representative Marcotte read a resolution honoring Representative Haydon. He then moved for adoption of the resolution. The motion was seconded by Representative Wayne and approved by unanimous voice vote.

Representative Wayne said it will be a loss to the citizens and the Committee that Representative Haydon will no longer be serving here. He said Representative Haydon is a man of great integrity and was a very hard-working Chair.

Representative Marcotte read by title a resolution honoring Senator Virgil Moore who also is leaving the General Assembly, and moved for adoption of the resolution. The motion was seconded by Representative Wayne and approved by unanimous voice vote.

Senator Buford made a motion to approve the minutes of the November 16, 2004 meeting as submitted. The motion was seconded by Senator Rhoads and passed by voice vote.

Representative Haydon then called on Ms. Collins to review correspondence and information items. She said members' folders contained one item of correspondence - the Kentucky Lottery Corporation's monthly financial report for October 2004; and one information item - a staff update on various capital projects. Ms. Collins noted that the cost of construction materials continues to rise. She said Mr. Bill Hintze, Deputy Budget Director, Governor's Office for Policy and Management, reported at the last Capital Planning Advisory Board meeting that his office was carefully studying proposed capital projects to determine whether projects proposed for funding by the General Assembly need to be modified due to rising construction costs.

Representative Haydon then said several months ago the Committee reviewed an audit by the State Auditor of Public Accounts concerning lease law compliance by the Finance and Administration Cabinet. It was noted that for the first time, the audit did not include a review of leases procured by the postsecondary institutions. In response to an inquiry by the Committee, the State Auditor noted that the statute requiring the Auditor to review leases procured by the Finance Cabinet does not address postsecondary institutions. Representative Haydon said as a result, the Committee asked that the Council on Postsecondary Education (CPE) work with postsecondary institutions to formulate a plan on how audits of postsecondary leasing programs should be addressed.

He introduced Ms. Sandra Woodley, Vice President for Finance, CPE, to present a plan of action that the Council has developed in conjunction with the postsecondary institutions.

Ms. Woodley discussed a two-page recommendation submitted to the Committee by CPE regarding postsecondary education lease compliance. Ms. Woodley said based on discussions with postsecondary education institutions and the Auditor of Public Accounts, CPE recommends that the postsecondary institutions include lease law compliance in their external financial audits. She said the Auditor's Office has agreed to develop minimum audit standards for the postsecondary education lease audit program by January 31, 2005, which would allow institutions to include the review of leases in their contracts for the regular FY 2006 financial audit.

Ms. Woodley said once the minimum scope of the audit has been developed by the Auditor of Public Accounts, it will be approved by CPE and the Capital Projects Committee before they proceed. She said the lease audit program would adhere to a minimum standard for random sampling of leases in order to demonstrate a sufficient standard of compliance for the statutory lease provisions. The plan was developed so it is consistent with similar lease compliance audits done of other executive branch state agencies. Ms. Woodley said CPE is recommending the audit be completed on a biennial basis beginning in 2006.

Ms. Woodley said this recommendation was shared with postsecondary institution representatives December 13 and there were no objections.

Senator Buford asked who will be responsible for the cost of the audits. Ms. Woodley said the institutions will be responsible for the cost. She said the additional cost would not be substantial since the institutions would add it to their regular Request for Proposal to potential auditors.

Ms. Woodley said they could handle this particular recommendation without changing the statutes. She said the institutions have voluntarily agreed to include lease compliance in their audits, and this recommendation will become a CPE policy.

Representative Wayne commended CPE for the cooperative spirit reflected in the agreement. He asked if the agreement could be modified so the lease audits can be completed on an annual basis rather than on a biennial basis. Ms. Woodley said they did not discuss this with the postsecondary institutions, but they would be happy to respond to such a request. She said the recommendation was modeled based on the statutes which require biennial audits. She said if it is the view of the Committee that the audits be completed annually, they would be happy to pursue that further.

Representative Wayne said in terms of oversight, annual audits would be preferable. He requested that Ms. Woodley let the Committee know what the postsecondary institutions' response is to this request.

Representative Wayne then made a motion that a letter of endorsement of the plan be sent to CPE and that CPE be commended for its efforts in developing the plan. The motion was seconded by Representative Marcotte and passed by unanimous voice vote.

Next, Mr. Bob Wiseman, Associate Vice President for Facilities, University of Kentucky (UK), reported a \$3,689,825 scope increase for the Biomedical/Biological Sciences Research Building (BBSRB) and Building Connectors II project. Mr. Wiseman said the scope increase will fund final fit up of various spaces within the BBSR building. The scope increase will be funded with UK Research Foundation and Department funds. The revised project scope is \$77,280,000.

Representative Wayne asked if this was the first time UK has used the construction management-at-risk (CM-at-risk) project delivery method. Mr. Wiseman said they used CM-at-risk for the restoration of the Administration Building. He said the BBSRB project's use of CM-at-risk as the project delivery method went very well, and to date, they have had limited claims.

Senator Buford made a motion to approve the scope increase for the BBSRB and Building Connectors II project. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

Representative Marcotte asked if there is any dialogue or cooperation between the University of Kentucky and the University of Louisville regarding medical and biomedical research. Mr. Wiseman said there is a lot of cooperation between the two universities.

Mr. Wiseman next reported that the University plans to use the CM-at-risk project delivery method for Memorial Coliseum Expansion project - Basketball Practice Facility. He said the project has \$2.5 million in authority for design only, and of that amount, they have encumbered \$2.1 million. He said under the current project authorization, a construction management firm will be used to do pre-construction services only, which would entail detailed cost estimating and some recommendations on how bid packages will be put out later in the project. He said the amount of the pre-construction contract is approximately \$300,000. Representative Haydon said this is an informational report, and no further action is required.

Representative Haydon asked Mr. James Abbott, Commissioner, Department for Facilities and Support Services, to present the Finance Cabinet's monthly report to the Committee. Mr. Abbott reported an allocation of \$555,000 from the Emergency Repair, Maintenance and Replacement Account to repair a portion of the roof on Building 135 at Bluegrass Station. The revised scope of the project is \$593,000.

Mr. Abbott said the Department used \$38,000 from Bluegrass Station's Maintenance Pool to hire a consultant to do construction estimates and develop a construction contract document. He said to avoid future failure of that structure, the Finance Cabinet Secretary declared the project an emergency.

Mr. Abbott said the reroofing of the south end of Building 135 will allow Eagle Support Services, a contractor for the U.S. Army, to increase their employment by an additional 40 staff.

Representative Wayne said a similar project was presented to the Committee last year, but rather than use the state's emergency fund, the U.S. Department of the Army helped pay for the repairs. He asked if the federal government will reimburse the state in this case also. Mr. Abbott said it will not. He said it is his understanding that this project does not have that opportunity. Mr. Abbott said Bluegrass Station is operated from lease/rental income, and does not receive General Funds from the state. He said when the facility was turned over to the Commonwealth from the federal government, it was a vacated facility, and now the facility is close to 100% occupied.

In response to a question from Representative Wayne, Mr. Abbott said they did not feel that Bluegrass Station could underwrite the cost of the project from their operational funds.

Representative Wayne said these improvements are being made for the federal government and the war in Iraq. He said he viewed this project as a federal responsibility, and he was not clear why the state is paying for this project. Mr. Abbott said the state is the owner of this facility and the contractor represents the tenant. He said in the past, the tenant has been requested to underwrite improvements. A lot of the improvements are a result of discounted rent that is allowed to the tenant because of the funds they have injected into the facility. Mr. Joe Wilkins, Director of Bluegrass Station, said Building 135 is leased to a civilian contractor, not the federal government. He said the tenant/contractor is doing work for the federal government, and they requested additional space to hire additional employees and bring in more work. He said if they do not make the necessary repairs, they run the risk of losing a tenant.

In response to further questioning by Representative Wayne, Mr. Abbott said he would be happy to contact the federal government and ask them about underwriting the cost.

Mr. Wilkins said he met with Forces Command staff in November relating to additional improvements to the building. He said he asked if there was a way the lease could be between the state and the federal government so they would have access to federal funds. He said they were not sure, but they are looking at that for future agreements.

Representative Wayne requested that a written response be generated regarding federal reimbursement for the roof replacement project. Mr. Abbott said they will seek that information and provide it to the Committee. Representative Wayne said this is a dangerous precedent, and a better precedent would be for the federal government to reimburse the state for these types of projects.

Representative Haydon said allocations from the Emergency Account must be reported to the Committee within 30 days, and no further action is required.

Mr. Abbott next reported an \$80,000 scope increase using Major Maintenance Pool funds for another roofing project at Bluegrass Station. Mr. Abbott reported that Bays A, B and F at Building 221 will be re-roofed. (This project was initially approved by the Committee as a \$1,000,000 unbudgeted project in September 2003.) The additional funds will allow the general contractor to install expansion joints on the east end of the bay due to wall movement and to replace the downspout line in the roof canopy. The revised project scope is \$1,080,000.

Representative Wayne asked how much roofing needs to be replaced at Bluegrass Station. Mr. Abbott said the facility has over one million square feet of roof area. He said roof leaks and the need for roof replacements are to be expected in light of the facility's age. He commended Bluegrass Station personnel for having been able to underwrite the majority of the repair and maintenance work from their own operational funds.

Representative Wayne asked if any inventory of the buildings has been done to assess the conditions of the facilities. Mr. Abbott said there have been assessments of the roof conditions, but until more detailed studies are done, he cannot say if there is a problem.

Representative Wayne said it may be wise to do a comprehensive review of what is needed so a plan of action can be developed. Otherwise, everything becomes an emergency, and the state starts draining its emergency fund. Mr. Abbott said Bluegrass Station has been replacing roofs aggressively with their available funds, and will continue to do so in order to attract tenants.

Senator Buford made a motion to approve the scope increase. The motion was seconded by Representative Damron and passed by unanimous roll call vote.

Mr. Abbott next reported an unbudgeted federally funded project for the Kentucky State Police (KSP) to upgrade the Automated Fingerprint Identification System (AFIS). The project scope is \$1,550,000, with \$1,042,800 in federal funds, and \$507,200 in restricted agency funds from KSP.

Mr. Abbott next reported an allocation of \$8,000 from the Capital Construction and Equipment Purchase Contingency Account to pay for the installation of a new fiber optic cable to replace the existing one as part of the Security, Fire Alarm, and Energy System project at the Kentucky School for the Blind. The revised project scope is \$458,000.

Representative Wayne made a motion to approve the AFIS project for the Kentucky State Police and the allocation from the contingency account for the Kentucky School for the Blind project. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote.

Mr. Abbott then reported that the Finance and Administration Cabinet is transferring \$400,000 from the Department of Agriculture's FY 2004-05 operating budget (General Fund) to a capital construction account for the PACE program.

Representative Wayne asked if the Department anticipates receipt of additional federal funds for the PACE program. Mr. Glenn Mitchell, Budget Director, Department of Agriculture, said the state has an application open with the federal government right

now. He said as they use the \$400,000 being transferred to acquire more easements, the state will be eligible for 50/50 matching funds from the federal government.

Mr. Abbott then briefed the Committee concerning the rising cost of steel and other construction materials. He said he had indicated to the Office of the State Budget Director that a 10% increase to capital construction projects should be estimated in calculating any projects brought forward from the last budget request. He said this increase is based on discussions with numerous estimating groups dealing with capital construction, and also looking at a number of recently-bid state projects. He said material costs on a global basis continue to rise, due to the impact of China's recent building efforts.

Ms. Sandy Williams, Kentucky Infrastructure Authority (KIA), next reported a \$249,730 Fund B loan for the City of Owenton, Owen County. The proceeds will be used for construction of a new raw water intake and installation of a 12" ductile iron main.

Senator Rhoads made a motion to approve the Fund B loan. The motion was seconded by Representative Marcotte passed by unanimous roll call vote.

Ms. Williams said also included in members' folders were reports from KIA regarding new Tobacco and Coal Development Grants and 2020/Fund B grants. No further action was required on these projects.

The next report was provided by Mr. Tom Howard, Acting Executive Director, Office of Financial Management (OFM). Mr. Howard reported one new bond issue: Kentucky Economic Development Finance Authority (KEDFA) Variable Rate Demand Hospital Revenue Refunding Bonds, \$94,800,000. The proceeds of the bond issue will be used to refund outstanding bonds. This issue will benefit hospitals located in Lexington, Paducah, St. Matthews, Corbin, and LaGrange.

Representative Wayne made a motion to approve the KEDFA bond issue. The motion was seconded by Senator Buford and passed by unanimous roll call vote.

Mr. Howard said included in members' folders was one follow-up report for previously issued bonds: Kentucky Housing Corporation Housing Revenue Bonds, 2004 Series F (AMT), in the amount of \$45,000,000. Representative Haydon said no action was required for this report.

Mr. Howard next presented two new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Jessamine County and Meade County.

Senator Buford made a motion to approve the two school bond issues. The motion was seconded by Representative Wayne and passed by roll call vote. Five members voted affirmatively; Representative Damron abstained from the vote, citing a potential conflict of interest.

Representative Haydon said there were four 100% locally funded school bond issues on the agenda today. The first issue was an issue by the Kentucky Interlocal School Transportation Association (KISTA). The other three issues are projects in the counties of Franklin, Harlan, and Monroe. Staff has reviewed all of the local bond issues and reports that all disclosure information has been filed in conformance with the statutes.

The Committee's next meeting is scheduled for January 18 at 1:00 p.m.

With there being no further business, Senator Rhoads made a motion to adjourn the meeting. The motion was seconded, and the meeting adjourned at 2:05 p.m.